

BUSINESS REPORT

**MONTANA HOUSE OF REPRESENTATIVES
62nd LEGISLATURE - REGULAR SESSION**

HOUSE TAXATION COMMITTEE

Date: Thursday, March 24, 2011

Place: Capitol

Time: 8:00 AM

Room: 152

BILLS and RESOLUTIONS HEARD:

HB 569 - Revise state employee salary back to 2005

HB 626 - Increase tobacco product taxes

EXECUTIVE ACTION TAKEN:

HB 569 (Tabled)

HB 240 (DPAA)

HB 340 (F)

HB 595 (Be Amended)

Comments:



REP. Mark Blasdel, Chair

HOUSE OF REPRESENTATIVES

ROLL CALL

TAXATION COMMITTEE

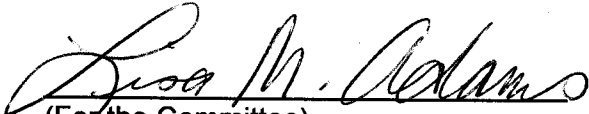
DATE: 3/24/11

<u>NAMES</u>	<u>PRESENT</u>	<u>ABSENT/EXCUSED</u>
Vice Chair Mike Miller	✓	
Rep. Dick Barrett	✓	
Rep. Alan Hale	✓	
Rep. Lee Randall	✓	
Rep. Mike Phillips		✓
Rep. Steve Lavin	✓	
Rep. Austin Knudsen	✓	
Rep. Edie McClafferty		✓
Rep. Max Yates		✓
Rep. Janna Taylor		✓
Rep. Sue Malek		✓
Rep. Brian Hoven	✓	
Rep. Mary McNally	✓	
Rep. Steve Fitzpatrick	✓	
Rep. Kelly Flynn	✓	
Rep. Kathleen Williams	✓	
Rep. Jerry O'Neil	✓	
Rep. Wayne Stahl		✓
Chairman Mark Blasdel	✓	

BILL TABLED NOTICE

HOUSE TAXATION COMMITTEE

The HOUSE TAXATION COMMITTEE TABLED
HB 569 - Revise state employee salary back to 2005
, by motion, on Thursday, March 24, 2011.


(For the Committee)


(For the Chief Clerk of the House)

8:11 1 3/25
(Time) (Date)

March 24, 2011

Lisa Adams, Secretary

Phone: 4745



HOUSE STANDING COMMITTEE REPORT

March 24, 2011

Page 1 of 8

Mr. Speaker:

We, your committee on **Taxation** recommend that **House Bill 240** (first reading copy -- white) **do pass as amended.**

Signed: _____

Representative Mark Blasdel, Chair

And, that such amendments read:

1. Title, page 1, line 5.

Strike: "CONDEMNOR'S"

Following: "OFFER"

Insert: "BY THE STATE OR ITS AGENT"

2. Title, page 1, line 8 through line 9.

Strike: "PROVIDING" on line 8 through "USED;" on line 9

3. Title, page 1, line 9.

Following: "70-30-111,"

Strike: "AND"

Following: "70-30-305,"

Insert: "AND 70-30-311,"

4. Page 1, line 14 through page 7, line 1.

Strike: everything after the enacting clause

Insert: "**Section 1.** Section 70-30-101, MCA, is amended to read:

"70-30-101. Eminent domain defined -- definitions. (1)

Eminent domain is the right of the state to take private property for public use. This right may be exercised in the manner provided in this chapter.

(2) As used in this chapter, unless the context indicates otherwise, the following definitions apply:

(a) "Appraisal" means a written statement, independently and impartially prepared by a certified real estate appraiser as defined in 37-54-102 with a minimum of 5 years of experience,

Committee Vote:

Yes 17, No 2

Fiscal Note Required ____

HB0240002SC.hgh

John
3/25/11
11:10

setting forth an opinion of defined value of an adequately described property or property interest on a specific date and supported by the presentation and analysis of relevant market information.

(b) "Final written offer" means the last written offer presented to the property owner at least 30 days before service of process in a civil action pursuant to 70-30-202.

(c) "Negotiation" means a communication process of give-and-take discussions between parties."

Insert: "Section 2. Section 70-30-110, MCA, is amended to read:

"70-30-110. Survey and location of property to be taken -- greatest public good -- least private injury. (1) In all cases in which land is required for public use, the state or its agents in charge of the public use may survey and locate the land to be used. The use must be located in the manner that will be most compatible with the greatest public good and the least private injury, and the location is subject to the provisions of 70-30-206. The state or its agents in charge of the public use may, after giving 30 days' written notice to the owners and persons in possession of the land, enter upon the land and make examination, surveys, and maps of the land. The entry does not constitute a cause of action in favor of the owners of the land except from injuries resulting from negligence or intentional acts. Upon written request of the state or its agents, the owner shall provide the names and addresses of all persons who are in possession of the owner's land within 14 days from receipt of the written notice. The state or its agents shall within 14 days from receipt of that information furnish written notice to the listed persons. The notice to the listed persons must be sent to the address provided by the owner, and if the owner fails to provide the address then there is no obligation to send the notice unless the state or its agent otherwise has an address for the listed person. The notice to the listed persons does not affect the deadline of the original 30 days' notice or the right of the state or its agent to enter upon the land upon the expiration of the 30 days.

(2) Prior to or at the time of rejection of the final written offer as referred to in ~~70-30-111(4)~~ 70-30-111(1)(d), the condemnee may provide to the condemnor the condemnee's claim of appropriate measures that the condemnee considers necessary to minimize damages to the property directly affected by the project as well as to minimize damages incurred to the remaining parcel of property."

Insert: "Section 3. Section 70-30-111, MCA, is amended to read:

"70-30-111. Facts necessary to be found before condemnation. (1) Before property can be taken, the condemnor shall show by a preponderance of the evidence that the public interest requires the taking based on the following findings:

~~(1)~~ (a) the use to which the property is to be applied is a public use pursuant to 70-30-102;

~~(2)(b)~~ the taking is necessary to the public use;
~~(3)(c)~~ if already being used for a public use, that the public use for which the property is proposed to be used is a more necessary public use;

~~(4)(d)~~ an effort to obtain the property interest sought to be taken was made by submission of a written offer and the offer was rejected. a final written offer of just compensation was made and the property owner was given at least 30 days to provide a written acceptance or rejection of the offer in accordance with subsection (2); and

(e) the appraisal, negotiation, and other condemnation procedures required pursuant to [section 6] have been satisfied.

(2)(a) The written offer must be sent by certified mail to the owner's property tax address unless the owner has advised the state or its agent in writing of a different address for notices for purposes of the negotiations.

(b) A written offer is considered rejected if no written acceptance is received within 30 days after its delivery."

Insert: "Section 4. Section 70-30-305, MCA, is amended to read:

"70-30-305. Condemnor to make offer upon appeal -- award of expenses of litigation. (1) The condemnor shall, within 30 days after an appeal is perfected from the condemnation commissioner's award or report or not more than 60 days after the waiver of appointment of commissioners, submit to the condemnee a written final offer of judgment for the property sought to be taken, together, if the award was in excess of the final written offer as provided in 70-30-111(1)(d), with the accrued necessary expenses of the condemnee. If at any time prior to 10 days before trial the condemnee serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance, together with proof of service of the acceptance, and judgment must be entered. An offer not accepted is considered withdrawn and evidence of the offer is not admissible at the trial except in a proceeding to determine costs. The fact that an offer is made but not accepted does not preclude a subsequent offer.

(2) In the event of litigation and when the condemnee prevails by receiving an award in excess of the final ~~offer of the condemnor written offer as provided in 70-30-111(1)(d),~~ the court shall award necessary expenses of litigation to the condemnee."

Insert: "Section 5. Section 70-30-311, MCA, is amended to read:

"70-30-311. Putting condemnor in possession. (1) At any time after the filing of the preliminary condemnation order pursuant to 70-30-206 or an order as provided in 60-4-104(4) and (5) and while it retains jurisdiction, the court upon application of the condemnor may make an order that:

(a) upon payment into court of the amount of compensation claimed by the condemnee in the condemnee's statement of claim of just compensation under 70-30-207, or the amount assessed either by the commissioners or by the jury, or 125% of the amount of the

condemnor's final written offer pursuant to [section 6(8)], the
condemnor is authorized:

(i) if already in possession of the property of the
condemnee that is sought to be taken, to continue in possession;
or

(ii) except as provided in subsection (3)(b), if not in
possession, to take possession of the property and use and
possess the property during the pendency and until the final
conclusion of the proceedings and litigation; and

(b) all actions and proceedings against the condemnor on
account of the possession are stayed until the final conclusion
of the proceedings and litigation.

(2) If the condemnee fails to file a statement of claim of
just compensation within the time specified in 70-30-207, the
condemnor may obtain an order for possession provided for in
subsection (1), subject to the condition subsequent that a
condemnor's payment into court of the amount assessed either by
the commissioners or by the jury must be made within 10 days of
receipt of the ~~condemnee's statement of claim~~ report of the
condemnation commissioners under 70-30-303 or the jury verdict
under 70-30-304.

(3)(a) However, when an appeal is taken by the condemnee,
the court, upon request of the condemnee, may require the
condemnor ~~before continuing or taking possession,~~ in addition to
paying into court the amount assessed, to give a bond or
undertaking with sufficient sureties approved by the court and in
an amount that the court may direct, conditioned to pay the
condemnee any additional damages and costs above the amount
assessed, which is finally determined as the amount that the
condemnee is entitled to for the taking of the property, and all
damages that the condemnee may sustain if for any cause the
property is not finally taken for public use.

(b) The condemnor may remain in possession of the property
during the proceedings to determine the bond or undertaking and
may continue in possession if the condemnor posts the bond or
undertaking within 10 days of the court's order determining the
bond or undertaking.

(4) The amount assessed by the commissioners or by the jury
on appeal is considered, for the purposes of this section and
until reassessed or changed in the further proceedings, as just
compensation for the property taken. However, the condemnor, by
payment into court of ~~the an amount claimed in the answer or the~~
~~amount assessed under subsection (1)(a)~~ or by giving security as
provided in subsection (3), may not be prevented from appealing
from the assessment but may appeal in the same manner and with
the same effect as if money had not been deposited or security
had not been given.

(5) (a) Subject to subsection (5)(b), in all cases in which
the condemnor deposits ~~the an amount of the assessment under~~
subsection (1)(a) and continues in possession or takes possession
of the property, as provided in this section, the condemnee, if

there is no dispute as to the ownership of the property, may at any time demand and receive upon order of the court all or any part of the money deposited. The demand or receipt may not preclude the condemnee's right of appeal from the assessment. However, if the amount of the assessment is finally reduced on appeal by either party, the condemnee who has received all or any part of the amount deposited is liable to the condemnor for any excess of the amount received over the amount finally assessed, with legal interest on the excess from the time the condemnee received the money deposited. The excess, plus interest, may be recovered by a civil action. Upon any appeal from an assessment by the commissioners to a jury, the jury may make a finding for any amount that it considers appropriate.

(b) The court may not order the delivery to any condemnee of more than 75% of the money deposited on the condemnee's account except upon posting of bond by the condemnee equal to the amount in excess of 75%, with sureties to be approved by the court, to repay to the condemnor amounts withdrawn that are in excess of the condemnee's final award in the proceedings."

"NEW SECTION. Section 6. Written offer, negotiation, and other condemnation policies mandated. Unless the property owner and the state or its agent agree in writing otherwise, the state or its agent shall comply with the following policies for the acquisition of real property:

(1) Before the initiation of negotiations for the acquisition of real property, an amount must be established by the state or its agent that is reasonably believed to be just compensation for the property or interest taken and that amount must be offered for the property as a written statement of the initial offer. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which the property is acquired or by the likelihood that the property would be acquired for the improvement, other than an amount due to physical deterioration within the reasonable control of the owner, must be disregarded in determining the compensation for the property. The owner of the real property to be acquired must be provided with a written statement of the initial offer and a summary of the basis for the amount established as just compensation. When appropriate, the just compensation for the real property to be acquired and for damages to remaining real property must be separately stated. The written statement of the initial offer must be sent by certified mail to the owner's property tax address unless the owner has advised the state or its agent in writing of a different address for statements and notices for the purposes of the negotiations.

(2)(a) The owner of the property sought to be taken shall reply to the state or its agent in writing within 30 days of delivery of the written statement of the initial offer pursuant to subsection (1) or additional offers pursuant to subsection (3) in accordance with subsections (2)(b) and (2)(c) or the offer is considered rejected.

(b) In a reply to the written statement of the initial offer or additional written offers, the owner of the property sought to be taken shall accept, reject, or provide a counteroffer to the state or its agent.

(c) The reply must be delivered by certified mail.

(3) After receiving a response to the written statement of the initial offer pursuant to subsection (2), the state or its agent may continue negotiations with the owner of the property sought to be taken by providing additional written offers. If the state or its agent provides additional written offers to the owner of the property sought to be taken, the property owner shall respond as provided in subsection (2).

(4) Forty-five days after the owner receives the written statement of the initial offer, the state or its agent may send written notice to the property owner to end initial negotiations. The notice must be sent by certified mail to the property owner's property tax address unless the owner has advised the state or its agent in writing of a different address for notices and statements for the purposes of the negotiations. The notice may request that the parties begin a mediation process under subsection (5).

(5) The state or its agent shall make every reasonable effort to expeditiously acquire real property by negotiation using the process in subsections (1) through (4). If:

(a) within 45 days of the written statement of the initial offer a voluntary property interest agreement has not been signed by both parties, a formal mediation process may begin if the parties mutually agree to a mediation process. The mediator must be paid for by the state or its agent acquiring the property. A reasonable effort does not require mediation.

(b) within 90 days of the delivery of the written statement of the initial offer the parties cannot agree on a mediation process, the mediation efforts do not produce a settlement agreement, or the parties do not otherwise reach agreement on a mutually signed property interest agreement, the state or its agent acquiring the property shall make the final written offer provided for in 70-30-111(1)(d) based upon an appraisal. The property owner has 30 days from delivery of the final written offer to either accept or reject the final written offer, and a lack of acceptance or rejection on the part of the property owner within that time means that the property owner has rejected the final written offer.

(c) the final written offer is rejected as provided in subsection (5)(b), a civil action may be filed pursuant to 70-30-202.

(6) A property owner's claim for appropriate measures under 70-30-110(2) may not be considered a rejection of the final written offer by the state or its agent referred to in 70-30-111(1)(d).

(7)(a) Real property must be appraised before the final written offer, and the owner or the owner's designated

representative must be given an opportunity to accompany the appraiser during the appraiser's inspection of the property. The appraiser has the right to enter upon property for the purposes of appraising the property, and the entry does not constitute a cause of action in favor of the owner except from injuries resulting from negligence or intentional acts.

(b) For appraisals done by appraisers licensed by another state, the licensure qualifications for that state must be as stringent as those provided for in Title 37, chapter 54, part 2.

(8) An owner may not be required to surrender possession of real property before the agreed purchase price and relocation costs are paid or before there is deposited with the court, in accordance with 70-30-311(1)(a) and subsection (11) of this section, for the benefit of the owner, an amount not less than 125% of the amount of the final written offer by the state or its agent, the amount of the award of compensation in the condemnation proceeding of the property, or the amount of compensation claimed by the condemnee in the condemnee's statement of claim of just compensation under 70-30-207.

(9) The construction or development of a program or project must be scheduled so that, to the greatest extent practicable, a person lawfully occupying real property is not required to move from a dwelling or to materially move the person's business or farm operation without at least 90 days' written notice of the date by which a move is required.

(10) If an owner or tenant is permitted to occupy the real property acquired on a rental basis, on a short-term basis, or for a period subject to termination by the condemnor on short notice, the amount of rent required may not exceed the fair rental value of the property to a short-term occupier.

(11) The timeframe for condemnation and negotiations must be in accordance with this chapter, and the deposit of funds in court for the use of the owner may not be deferred. Any other action coercive in nature may not be taken to compel an agreement on the price to be paid for the property.

(12) If an interest in real property is to be condemned for a public use as defined in 70-30-102, formal condemnation proceedings must be instituted as provided in this chapter. The state or its agent may not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of the owner's real property.

(13) If the fee acquisition of only part of the property would leave its owner with an uneconomic remnant, an offer to acquire the uneconomic remnant must be made.

(14) A person whose real property is being acquired may, after being fully informed of the person's right to receive just compensation, donate to the state or its agent the property, any interest in the property, or any compensation received for the property.

Insert: "NEW SECTION. Section 7. Codification instruction.
[Section 6] is intended to be codified as an integral part of

Title 70, chapter 30, part 1, and the provisions of Title 70, chapter 30, part 1, apply to [section 6]."

Insert: "NEW SECTION. **Section 8. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

Insert: "NEW SECTION. **Section 9. Effective date.** [This act] is effective on passage and approval."

- END -

HOUSE OF REPRESENTATIVES

Roll Call Vote

TAXATION COMMITTEE

DATE: 3/24/11 BILL NO. 240 MOTION
NO. _____

MOTION: Be Amended HB024003. as is

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	<u>PROXY*</u>
Vice Chairman Mike Miller	✓		
Rep. Dick Barrett	✓		
Rep. Alan Hale	✓		
Rep. Lee Randall	✓		
Rep. Mike Phillips	✓		
Rep. Steve Lavin	✓		
Rep. Austin Knudsen	✓		
Rep. Edie McClafferty	✓		
Rep. Max Yates	✓		✓
Rep. Janna Taylor	✓		
Rep. Sue Malek	✓		
Rep. Brian Hoven	✓		
Rep. Mary McNally	✓		✓
Rep. Steve Fitzpatrick	✓		
Rep. Kelly Flynn	✓		
Rep. Kathleen Williams	✓		
Rep. Jerry O'Neil	✓		
Rep. Wayne Stahl	✓		
Chairman Mark Blasdel	✓		

*If Proxy Vote, include signed Proxy Form with minutes

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HOUSE OF REPRESENTATIVES

Roll Call Vote

TAXATION COMMITTEE

DATE: 3/24/11 BILL NO. 240 MOTION

NO. _____

MOTION: Be Amended HB024007.asn

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	<u>PROXY*</u>
Vice Chairman Mike Miller		✓	
Rep. Dick Barrett		✓	
Rep. Alan Hale	✓		
Rep. Lee Randall		✓	
Rep. Mike Phillips		✓	✓
Rep. Steve Lavin		✓	
Rep. Austin Knudsen		✓	
Rep. Edie McClafferty		✓	
Rep. Max Yates	✓		✓
Rep. Janna Taylor	✓		✓
Rep. Sue Malek		✓	
Rep. Brian Hoven		✓	
Rep. Mary McNally		✓	
Rep. Steve Fitzpatrick		✓	
Rep. Kelly Flynn	✓		
Rep. Kathleen Williams		✓	
Rep. Jerry O'Neil		✓	
Rep. Wayne Stahl		✓	
Chairman Mark Blasdel		✓	

*If Proxy Vote, include signed Proxy Form with minutes

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HOUSE OF REPRESENTATIVES

Roll Call Vote

TAXATION COMMITTEE

DATE: 3/24/11 BILL NO. 240 MOTION
NO. _____

MOTION: Be Amended HBO24001.asn

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	<u>PROXY*</u>
Vice Chairman Mike Miller		✓	
Rep. Dick Barrett		✓	
Rep. Alan Hale		✓	
Rep. Lee Randall	✓		
Rep. Mike Phillips		✓	
Rep. Steve Lavin		✓	
Rep. Austin Knudsen	✓		
Rep. Edie McClafferty		✓	
Rep. Max Yates		✓	✓
Rep. Janna Taylor	✓		
Rep. Sue Malek		✓	
Rep. Brian Hoven	✓		
Rep. Mary McNally		✓	
Rep. Steve Fitzpatrick	✓		
Rep. Kelly Flynn		✓	
Rep. Kathleen Williams		✓	
Rep. Jerry O'Neil	✓		
Rep. Wayne Stahl	✓		
Chairman Mark Blasdel		✓	

*If Proxy Vote, include signed Proxy Form with minutes

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12

HOUSE OF REPRESENTATIVES

Roll Call Vote

TAXATION COMMITTEE

DATE: 3/24/11 BILL NO. 340 MOTION

NO. _____

MOTION: DO Pass

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	<u>PROXY*</u>
Vice Chairman Mike Miller		✓	
Rep. Dick Barrett	✓		
Rep. Alan Hale		✓	
Rep. Lee Randall		✓	
Rep. Mike Phillips	✓		
Rep. Steve Lavin		✓	
Rep. Austin Knudsen		✓	
Rep. Edie McClafferty	✓		
Rep. Max Yates		✓	✓
Rep. Janna Taylor		✓	
Rep. Sue Malek	✓		
Rep. Brian Hoven		✓	
Rep. Mary McNally	✓		
Rep. Steve Fitzpatrick		✓	
Rep. Kelly Flynn		✓	✓
Rep. Kathleen Williams	✓		
Rep. Jerry O'Neil	✓		
Rep. Wayne Stahl		✓	
Chairman Mark Blasdel	✓		

*If Proxy Vote, include signed Proxy Form with minutes

HOUSE OF REPRESENTATIVES

Roll Call Vote

TAXATION COMMITTEE

DATE: 3/24/11 BILL NO. 595 MOTION
NO. _____

MOTION: Be Amended HB059501.akj

<u>NAME</u>	<u>AYE</u>	<u>NO</u>	<u>PROXY*</u>
Vice Chairman Mike Miller	✓		
Rep. Dick Barrett		✓	
Rep. Alan Hale		✓	
Rep. Lee Randall	✓		
Rep. Mike Phillips		✓	✓
Rep. Steve Lavin	✓		
Rep. Austin Knudsen	✓		
Rep. Edie McClafferty	✓		
Rep. Max Yates	✓		✓
Rep. Janna Taylor	✓		
Rep. Sue Malek		✓	
Rep. Brian Hoven	✓		
Rep. Mary McNally	✓		
Rep. Steve Fitzpatrick	✓		
Rep. Kelly Flynn	✓		
Rep. Kathleen Williams	✓		
Rep. Jerry O'Neil		✓	
Rep. Wayne Stahl	✓		
Chairman Mark Blasdel	✓		

*If Proxy Vote, include signed Proxy Form with minutes

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14 5

**AUTHORIZED
COMMITTEE PROXY**

I request to be excused from the HOUSE TAXATION

Committee because of other commitments. I desire to leave my proxy vote with:

Vice Chair Miller

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT

AYE NO

<u>HB 240 A2</u> ^{HB 24007.95h} <u>X</u>		

BILL/AMENDMENT

AYE NO

Rep. Jenna Ferrell

(Signature)

Date 3/24/11

AUTHORIZED COMMITTEE PROXY

I request to be excused from the House Taxation

Committee because of other commitments. I desire to leave my proxy vote with:

Rep. Mike Miller

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT

AYE NO

BILL/AMENDMENT

AYE NO

<u>HB 340</u>		<u>X</u>

Rep. Ruby Miller
(Signature)

Date 3/24/11

**AUTHORIZED
COMMITTEE PROXY**

I request to be excused from the TAXATION

Committee because of other ^{LEGISLATIVE} commitments. I desire to leave my proxy vote with:

REP. BARRETT

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT

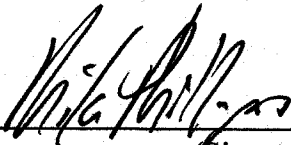
AYE NO

BILL/AMENDMENT

AYE NO

HB 0240 07,95n		✓
HB 059501,akj		✓

Rep.



(Signature)

Date

3/24/2011

AUTHORIZED COMMITTEE PROXY

I request to be excused from the HOUSE TAXATION

Committee because of other commitments. I desire to leave my proxy vote with:

DICK BARRETT

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT

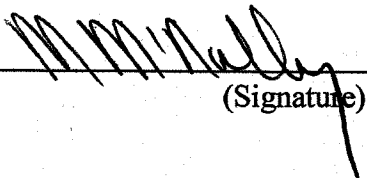
AYE NO

BILL/AMENDMENT

AYE NO

HB 569 (table)	✓	
HB 024004.qsn	✓	
HB 024003.qsn	✓	

Rep.


(Signature)

Date

3/24/2011

Yates

**AUTHORIZED
COMMITTEE PROXY**

I request to be excused from the

House Tax

Committee because of other commitments. I desire to leave my proxy vote with:

Vice Chair Miller

Indicate Bill number and your vote Aye or No. If there are amendments, list them by name and number under the bill and indicate a separate vote for each amendment.

BILL/AMENDMENT

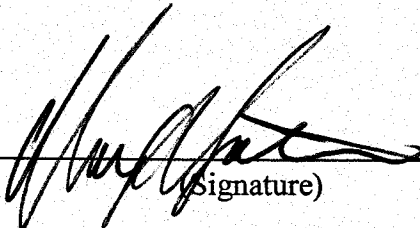
AYE NO

BILL/AMENDMENT

AYE NO

HB 369 ^{TO} Table	X	
HB 246 ^{HB 246 003, assn} A1	X	
HB 240 ^{HB 240 001, assn} A2	X	
HB 240 ^{HB 240 001, assn} A3		X
HB 240	X	
HB 340		X
HB 595 ^{HB 595 ci. ck}	X	

Rep.


(Signature)

Date

24 MAR 11

MONTANA House of Representatives
Visitors Register
HOUSE TAXATION COMMITTEE

Thursday, March 24, 2011

HB 569 - Revise state employee salary back to 2005

Sponsor: Representative Wayne Stahl

PLEASE PRINT

Name	Representing	Support	Oppose
Daniel R Kenner	Self		X
Don Judge	MT Nurses Association		X
Tom Schneider	MPHA		X
Lucy Richards	Self		X
JOHN FORAN	AECOM / MT ASST Pumps & Fitters		X
Nora Barzin	Self		X
Tim Burton	DOJ		X
Jessie Luther	Assoc MT Trappers		X
Kenneth Isen	Self		X
ERIC Reader	MSA-MFT		9
Keith Allen	IBEW 233		X
Chris Gervais	MT AFL-CIO		X
Jim Lynch	Truckers & Carpenters, MT Reg Trappers		X
Amy Sassano	OBPP	Informational	
Paula Stoll	DOA		V

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

MONTANA House of Representatives
Visitors Register
HOUSE TAXATION COMMITTEE

Thursday, March 24, 2011

HB 626 - Increase tobacco product taxes

Sponsor: Representative Trudi Schmidt

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Int 6

Name	Representing	Support	Oppose
Kristin Page Nei	Alliance for a healthy MT ^{ASPCAN}	✓	
Dore Judge	MT Nurses Association	X	
Larry Langfellow	VFW		✓
Shane Shelby PhD	WWAMI informational		
FRANK SMITH	SELF	✓	
Lee Baerlacher	Dept of Revenue		
Richard Sargent	Self	✓	
JODI L RADLIE	CAMPAIGN FOR	X	
Nanette Gilbertson	TOBACCO-FREE KIDS Big Brothers Big Sisters of MT	✓	
Kenna Alexander	Convenience Store Assoc		X
Mark Baker	Altria		X
Chiff Christian	Am Heart Assn / Am Stroke	X	
Jon Hennion	MT Chamber		X
Hayden Stegman	Self		X
Brad Griffin	MT Retail Assoc		X
Kathy McGowan	EMT MHC Ctr for MH WMT	X	
Roger Hearn	AMERICAN LEGION ^{MHC}		X
MARK STAPLES	WHOLESALEERS of MT		X
FRANK COPE	BCBSMT	X	
Gloria Clifford	AARP MT	✓	
Deborah J. Jones	CDF	✓	
Erin McGowan Finchan	AMPLHO	✓	

Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony.

Charles Azaghes

Area Agencies on Aging ✓

Jane HAMMAN

MT Council on Maternal & Child Health X
 MT Med Assn X

Janet Whitmayer

Montana House of Representatives
Witness Statement

TAXATION COMMITTEE

PLEASE PRINT

NAME: Richard P. Sargent

HB 626
BUDGET: _____

ADDRESS: 635 Tamarack, Helena, MT

DATE: 3/24/2011

WHOM DO YOU REPRESENT? Self

SUPPORT: ✓ OPPOSE: _____ AMEND: _____

COMMENTS:

Tobacco tax decreases initiation by kids
Tobacco tax increases cessation by adults
Tobacco Industry says Tax decreases
consumption more than any other
measure -
But it has to be a significant increase
and it has to keep happening in order
to remain effective.

Richard P. Sargent, MD

3/24/4

Intro: Family Physician from Helena for the past 20 years, MT Family Doctor of the year 2010, Lead author of Helena Heart Study showing immediate health benefit to Helena's Smoke-free ordinance of reduce heart attacks.

Most effective intervention I can have with a patient is to get them to stop smoking. It takes an average of 14 years off their lives. (No one can prevent death, but we can delay it.)

Improves the health of those around the smoker. (children breathing SHS in a car or home.)

In my family my grandparents generation lived forever. My parent's generation is dying early due to smoking. And in my generation my Cousin's husband never smoked and did not live with smokers. Worked outdoors all of his life and diagnosed with metastatic lung cancer this winter. Montana cowboy got it from his Copenhagen. This tax addresses spit tobacco and other creative forms of addiction maintenance. Everyone in this room can probably relate similar stories of family members with an addiction to nicotine.

Addictions require inspiration to break. Far easier to prevent kids from starting.

- Regular tobacco price increases keep kids from starting and help encourage adult users to quit. 10 % increase leads to 6.5% DECREASE in youth smoking, 2% decrease in adult smoking and overall 4% decrease in consumption.**

SIDS, Asthma in grandchildren, Autism, premature birth, low birth weight (and subsequent obesity) congenital heart conditions, infant mortality, learning disability, placenta previa and abruptions.

The tobacco industry recognizes that increased taxes on tobacco products represent one of the greatest threats to

the viability of the industry:

"Of all the concerns, there is one—taxation—that alarms us the most. While marketing restrictions and public and passive smoking do depress volume, in our experience taxation depresses it much more severely. Our concern for taxation is, therefore, central to our thinking about smoking and health. It has historically been the area to which we have devoted most resources and for the foreseeable future, I think things will stay that way almost everywhere." [95] (Philip Morris, 1985) [View Document](#)

The reason is simple:

"The problem with tax increases is that it does decrease consumption, just as...the social engineers posing these increases want to see." [96] (Philip Morris, 1987) [View Document](#)

So, the industry will often try to shift the terms of the debate on taxes:

"Finally, we try to change the focus on the issues. Cigarette tax become[s] an issue of fairness and effective tax policy." [97] (Philip Morris, 1993) [View Document](#)

Why Now?

- Despite recent successes in reducing youth and adult tobacco use in Montana, too many Montanans still smoke or chew tobacco, especially our kids (16% of Montana's adult smoke, as do 16% of Montana youth.)
- Regular tobacco price increases keep kids from starting and help encourage adult users to quit.
- In a recent public opinion survey by respected conservative pollster Bob Moore found that 70% of Montanans support an increase of \$1.50 - all political groups - independents, republicans and democrats show strong support for the price increase.

A Win-Win Solution that Works*

Fewer Tobacco Addicts, Healthier Montanans

- an additional 18.2 percent decline in youth smoking

(on top of 42% decline in the last decade)

- 5,200 fewer Montana adult smokers
- 4,300 fewer Montanans who will die (early) from smoking-related illnesses

Decreased Medical Costs

- \$3.3 million in 5-year health savings from fewer smoking-affected pregnancies & births
- \$2.3 million in 5-year health savings from fewer smoking-caused heart attacks & strokes
- \$213.9 million in long-term health savings from adult & youth smoking declines

Compare to cocaine.

1400 I Street NW - Suite 1200 - Washington, DC 20005

Phone (202) 296-5469 · Fax (202) 296-5427 ·

www.tobaccofreekids.org

<u>Projected Public Health Benefits from the Cigarette</u>	
<i>Percent decrease in youth smoking:</i>	18.2%
<i>Kids in Montana kept from becoming addicted adult smokers:</i>	9,400
<i>Current adult smokers in the state who would quit:</i>	5,200
<i>Smoking-affected births avoided over next five years:</i>	1,950
<i>Montana residents saved from premature smoking-caused death:</i>	4,300
<i>5-year health savings from fewer smoking-affected pregnancies & births:</i>	\$3.3 million
<i>5-year health savings from fewer smoking-caused heart attacks & strokes:</i>	\$2.3 million
<i>Long-term health savings in the state from adult & youth smoking declines:</i>	\$213.9 million

- Tax increases of less than roughly 25 cents per pack

or 10% of the average state pack price do not produce significant public health benefits or cost savings because the cigarette companies can easily offset the beneficial impact of such small increases with temporary price cuts, coupons, and other promotional discounting. Splitting a tax rate increase into separate, smaller increases in successive years will similarly diminish or eliminate the public health benefits and related cost savings (as well as reduce the amount of new revenues).

- Raising state tax rates on other tobacco products (OTPs) to parallel the increased cigarette tax rate will bring the state more revenues, public health benefits, and cost savings (and promote tax equity). With unequal rates, the state loses revenue each time a cigarette smoker switches to cigars, RYO, or smokeless. Projections are based on research findings that each 10% cigarette price increase reduces youth smoking by 6.5%, adult rates by 2%, and total consumption by 4% (adjusted down to account for tax evasion effects). Revenues still increase because the higher tax rate per pack will bring in more new revenue than is lost from the tax-related drop in total pack sales.

The projections incorporate the effect of both ongoing background smoking declines and the continued impact of the 61.66-cent federal cigarette tax increase (effective April 1, 2009) on prices, smoking levels and pack sales.

These projections are fiscally conservative because they include a generous adjustment for lost state pack sales (and lower net new revenues) from possible new smuggling and tax evasion after the rate increase. For ways that the state can protect and increase its tobacco tax revenues and prevent and reduce contraband trafficking and other tobacco tax evasion, see the Campaign for Tobacco-Free Kids factsheet, *State Options to Prevent and Reduce Cigarette Smuggling and to Block Other Illegal State Tobacco Tax Evasion*,

<http://tobaccofreekids.org/research/factsheets/pdf/0274.pdf>